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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PERNOD RICARD WINEMAKERS SPAIN, S.A., Plaintiff,	Civil Action No. ______________
- against -	**COMPLAINT**
TC VINEYARDS INC. d/b/a CELANI FAMILY VINEYARDS, Defendant.	**JURY TRIAL DEMANDED**

Plaintiff Pernod Ricard Winemakers Spain, S.A. ("Pernod Ricard"), by and through its undersigned counsel, complains of defendant TC Vineyards Inc. d/b/a Celani Family Vineyards ("Celani"), and alleges as follows:

JURISDICTION AND VENUE

1. This action is for false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), trademark infringement and unfair competition under the common law of the State of New York, and trademark dilution under New York General Business Law § 360-l.

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 39 of the Lanham Act, 15 U.S.C. § 1121, and 28 U.S.C. § 1331 for the claim arising under Section 43(a) of the Lanham Act, and has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) for the claims arising under the common and statutory law of New York State.

3. Celani is subject to personal jurisdiction within this judicial district because by advertising, marketing, promoting, supplying, distributing, offering for sale and selling wine products bearing the trademark SIGLO, as more fully set forth below, both within and outside of this judicial district, it has: (a) committed and threatened to commit acts of false designation of origin and trademark infringement in this judicial district; (b) caused injury to Pernod Ricard in this judicial district; (c) purposely and directly targeted its activities at parties within this judicial district; and (d) derived substantial revenues from interstate commerce.

4. Venue is properly founded in this judicial district pursuant to 28 U.S.C. § 1391, because Celani is subject to personal jurisdiction within this judicial district and/or because a substantial part of the events giving rise to the claims herein occurred within this judicial district.

NATURE OF THE ACTION

5. This action concerns Celani's infringement of Pernod Ricard's SIGLO trademark for wine products. Pernod Ricard has devoted substantial resources to promoting its SIGLO mark throughout the United States in association with wine products, including within this judicial district.

6. Upon information and belief, long after Pernod Ricard introduced its SIGLO brand wine products in the United States, Celani began advertising, marketing, promoting, supplying, distributing, offering for sale and selling throughout the United States, without Pernod

Ricard's consent or authorization, and in direct competition with Pernod Ricard, wine products bearing an identical SIGLO trademark.

THE PARTIES

7. Plaintiff Pernod Ricard Winemakers Spain, S.A. is *sociedad anonima* organized and existing under the laws of Spain, having its principal place of business at Paseo Mikeletegi 72, 2, San Sebastián, Spain 20009.

8. Upon information and belief, Defendant TC Vineyards Inc. d/b/a Celani Family Vineyards is a corporation organized and existing under the laws of the State of Michigan, having its principal place of business at 2230 Big Ranch Road, Napa, California 94558.

FACTS GIVING RISE TO THE ACTION

9. Pernod Ricard is a leading producer, supplier and brand owner of wine products in Spain, and is a subsidiary of one of the world's leading alcohol beverage companies, Pernod Ricard, S.A. of Paris, France. Among the popular products owned and produced by Pernod Ricard are wine products bearing the distinctive, well-known SIGLO brand name.

10. Pernod Ricard launched its SIGLO brand wine products in the United States in March 2005, and since that time has exported sold thousands of cases of SIGLO brand wine products into the United States for distribution and resale throughout the country, including within in this judicial district. In fact, Pernod Ricard's SIGLO brand wine products are and have been imported into the United States through licensed importers having business locations within this judicial district.

11. Importers of Pernod Ricard's SIGLO brand wine products have obtained label approvals from the United States Alcohol and Tobacco Tax and Trade Bureau for labels bearing

the brand name SIGLO, the first such approval having being issued prior to the product's initial importation into the United States in March 2005.

12. Pernod Ricard and its United States-based importers have invested substantial time, money and effort in advertising, marketing and promoting the SIGLO wine products throughout the United States, including within this judicial district. As a result, Pernod Ricard's SIGLO brand wine products have become well and favorably known by consumers of wine products, and significant goodwill has been developed in the SIGLO trademark in the United States. Accordingly, Pernod Ricard has valid and subsisting common law rights in the SIGLO trademark.

13. Pernod Ricard has also applied to register the following SIGLO trademark

Siglo

for wine products in the United States Trademark Office (App. Ser. No. 87/248,928). Pernod Ricard anticipates that such application will proceed to registration in due course.

14. Upon information and belief, Celani is a producer, marketer, supplier and distributor of wine products in the United States. Among the wine products marketed, supplied and/or distributed by Celani in the United States are products sold under the brand name SIGLO.

15. Upon information and belief, Celani only first began advertising, marketing, promoting, supplying, distributing, offering for sale and selling its SIGLO brand wine products in the United States in 2014.

16. Upon information and belief, Celani advertises, markets, promotes, and distributes its SIGLO brand wine products in the State of New York, through a New York-based distributor located within this judicial district.

17. Upon information and belief, Celani's SIGLO brand wine products are sold to consumers in various retail locations within the State of New York, and this judicial district, including within this judicial district.

18. By advertising, marketing, promoting, manufacturing, supplying, distributing, offering for sale and selling its SIGLO brand wine products as aforesaid, Celani is falsely designating the origin of its SIGLO brand wine products, and is infringing Pernod Ricard's rights in its SIGLO trademark for wine products. As a result, consumers and the trade are likely to be confused and believe that the Celani's SIGLO brand wine products emanate from and/or are endorsed, sponsored or otherwise affiliated with Pernod Ricard.

19. Pernod Ricard and Celani both use the brand name SIGLO as the primary indicator of source on their respective SIGLO brand wine products. A side-by-side comparison of a Pernod Ricard SIGLO brand wine product and a Celani SIGLO brand wine product appears below:

Pernod Ricard SIGLO Wine Product	**Celani SIGLO Wine Product**
Siglo RIOJA Reserva	SIGLO CELANI FAMILY VINEYARDS NAPA VALLEY 2012

20. Upon first learning, in late 2016, of Celani's promotion and sale of wine products under the SIGLO brand name, Pernod Ricard, by its counsel, requested that Celani cease and desist from all further manufacture, advertising, marketing, promotion, distribution, offer for sale and sale of its SIGLO brand wine products. However, in December 2016, and then again in January 2017, Celani, by its counsel, refused to comply with Pernod Ricard's request, and, upon information and belief, is continuing to advertise, market, promote, manufacture, supply, distribute, offer for sale and sell its SIGLO brand wine products throughout the United States, including within this judicial district, in violation of Pernod Ricard's prior rights in and to the SIGLO trademark. Copies of Pernod Ricard's cease and desist letters and Celani's responses thereto are attached to the Complaint as Exhibit A.

21. Celani's aforesaid refusal to comply with Pernod Ricard's request, and its continued sale and distribution thereafter of SIGLO brand wine products, constitutes willful and intentional conduct on Celani's part.

FIRST CLAIM FOR RELIEF
FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))

22. The allegations set forth in paragraphs 1 through 20 hereof are adopted and incorporated by reference as if fully set forth herein.

23. Celani, without authorization from Pernod Ricard, has used and is continuing to use, in connection with advertising, marketing, promotion, offering for sale and/or sale of wine products, a false designation of origin of such goods, namely the SIGLO mark. Such use is likely to cause confusion or mistake, or to deceive consumers into believing that Celani's SIGLO brand wine products are somehow affiliated, connected or associated with Pernod Ricard, and/or that Pernod Ricard has sponsored, endorsed, licensed or approved of Celani's advertising, marketing, promotion, offering for sale and/or sale of Celani's SIGLO brand wine products.

24. Upon information and belief, by its actions, Celani has made and will continue to make substantial profits and gains through the sale of its SIGLO brand wine products, to which it is not in law or in equity entitled.

25. Upon information and belief, by its actions, Celani intends to continue to falsely designate the origin of its SIGLO brand wine products, and to engage in acts of unfair competition, unless restrained by this Court.

26. Celani's acts have irreparably harmed, and will continue to irreparably harm Pernod Ricard, and Pernod Ricard has no adequate remedy at law.

SECOND CLAIM FOR RELIEF
COMMON LAW TRADEMARK INFRINGEMENT

27. The allegations set forth in paragraphs 1 through 26 hereof are adopted and incorporated by reference as if fully set forth herein.

28. Celani's aforesaid conduct constitutes trademark infringement under the common law of the State of New York.

29. Upon information and belief, by its actions, Celani has made and will continue to make substantial profits and gains through the sale of its SIGLO brand wine products, to which it is not in law or in equity entitled.

30. Upon information and belief, by its actions, Celani intends to continue its unlawful conduct, and to infringe Pernod Ricard's SIGLO trademark, unless restrained by this Court.

31. Celani's acts have irreparably harmed, and will continue to irreparably harm Pernod Ricard, and Pernod Ricard has no adequate remedy at law.

THIRD CLAIM FOR RELIEF
COMMON LAW UNFAIR COMPETITION

32. The allegations set forth in paragraphs 1 through 31 hereof are adopted and incorporated by reference as if fully set forth herein.

33. Celani's aforesaid conduct constitutes unfair competition with Pernod Ricard under the common law of the State of New York.

34. Upon information and belief, by its actions, Celani intends to continue its unlawful conduct, and to unfairly compete with Pernod Ricard in this manner, unless restrained by this Court.

35. Celani's acts have irreparably harmed and will continue to irreparably harm Pernod Ricard, and Pernod Ricard has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF
TRADEMARK DILUTION (N.Y. G.B.L. § 360-l)

36. The allegations set forth in paragraphs 1 through 35 hereof are adopted and incorporated by reference as if fully set forth herein.

37. Pernod Ricard's SIGLO trademark is inherently distinctive, and/or has acquired distinctiveness in the marketplace.

38. By its acts complained of herein, Celani has diluted, and/or is likely to dilute the distinctive qualities of Pernod Ricard's SIGLO trademark, such that Pernod Ricard's SIGLO trademark may lose its ability to serve as a unique identifier of Pernod Ricard's wine products, all in violation of New York General Business Law § 360-l.

39. Upon information and belief, by its actions, Celani intends to continue its unlawful conduct, and to dilute the distinctive qualities of Pernod Ricard's SIGLO trademark, unless restrained by this Court.

40. Celani's acts have irreparably harmed and will continue to irreparably harm Pernod Ricard, and Pernod Ricard has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Pernod Ricard demands judgment against Celani as follows:

1. Finding that, (a) as to Count 1, Celani engaged in false designation of origin and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); (b) as to Count 2, Celani engaged in trademark infringement in violation of the common law of the State of New York; (c) as to Count 3, Celani engaged in unfair competition with Pernod Ricard in violation of the common law of the State of New York; and (d) as to Count 4, Celani engaged in dilution of Pernod Ricard's SIGLO mark in violation of New York General Business law § 360-l.

2. That Celani and all of those acting in concert with it, including its agents and servants, and all those on notice of this suit, be enjoined from:

(a) advertising, marketing, promoting, manufacturing, supplying, distributing, offering for sale or selling any wine products under the "Siglo" trademark, including, without limitation, the Celani SIGLO brand wine products, or under any other trademark or name that is confusingly similar to Pernod Ricard's SIGLO trademark, and from engaging in any other activity constituting an infringement of any of Pernod Ricard's rights in and to the SIGLO mark;

(b) engaging in any activity constituting unfair competition with Pernod Ricard, or acts and practices that deceive the public and/or trade; and

(c) engaging in New York activities that are likely to dilute the distinctive qualities of Pernod Ricard's SIGLO trademark.

3. That, pursuant to 15 U.S.C. § 1116(a), Celani be directed to file and serve, within thirty (30) days following the entry of final judgment hereunder, a report setting forth the steps it has taken to comply with the provisions of such injunctive relief.

4. That, particularly in view of Celani's continued sales of its SIGLO brand wine products after having been contacted by Pernod Ricard, the Court award Pernod Ricard all of Celani's profits derived from its unlawful conduct, including, without limitation, its sale of SIGLO brand wine products, to the full extent provided by Section 35(a) of the Lanham Act, 15 U.S.C. § 1117(a).

5. That, particularly in view of Celani's continued sales of its SIGLO brand wine products after having been contacted by Pernod Ricard, Pernod Ricard be awarded its costs and attorneys' fees and investigatory fees and expenses to the full extent provided by Section 35 of the Lanham Act, 15 U.S.C. § 1117.

6. That Pernod Ricard be awarded interest, including both pre-judgment and post-judgment interest, on any monetary sums awarded hereunder.

7. That Pernod Ricard be awarded such additional and further relief as the Court deems just and proper.

Jury Trial Demanded: Pernod Ricard demands a trial by jury in this action.

Dated: New York, New York
April 27, 2017

ARNOLD & PORTER KAYE SCHOLER LLP

By: ______________________

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